

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DOMINION DEVELOPMENT : NO. 3:15-cv-00961-MEM  
GROUP, :

Plaintiff, : VOLUME II  
:

vs. :  
:

CINDY BEYERLEIN and :  
BOENNING & :  
SCATTERGOOD,

Defendants.

Tuesday, April 26, 2016

VIDEOTAPED DEPOSITION of TIMOTHY MARKLEY,  
taken pursuant to notice, held at the law offices of  
SAUL EWING, LLP, Centre Square West, 1500 Market Street,  
38th Floor, Philadelphia, Pennsylvania 19102, commencing  
at 1:10 a.m., before Jean M. Walker, Court Reporter -  
Notary Public there being present:

Page 2	
1	A P P E A R A N C E S:
2	
3	PERRUCCI LAW CORPORATION
4	BY: ANGELO M. PERRUCCI, JUNIOR, ESQUIRE
5	825 Walnut Avenue
6	Easton, Pennsylvania 18042
7	(610) 438-4562
8	perruccilaw@rcn.com
9	Representing the Plaintiff
10	
11	LAW OFFICE OF JEFFREY S. KATZ
12	BY: JEFFREY S. KATZ, ESQUIRE
13	52 Trinity Street
14	Newton, New Jersey 07860-1815
15	(973) 363-5001
16	katzman53@yahoo.com
17	Representing the Plaintiff
18	
19	THE LAW OFFICES OF GEORGE P. CHADA, P.C.
20	BY: GEORGE P. CHADA, ESQUIRE
21	221 Summit Drive
22	Natrona Heights, Pennsylvania 15065-9710
23	(412) 370-8780
24	Gchada@chadalaw.com
25	Representing Cindy Beyerlein
1	
2	SAUL EWING, LLP
3	BY: JOHN P. STOVIK, ESQUIRE
4	EMILY H. EDMUNDS, ESQUIRE
5	Centre Square West
6	1500 Market Street, 38th Floor
7	Philadelphia, Pennsylvania 19102
8	(215) 972-7777
9	jstovik@saul.com
10	Representing the Defendant,
11	Boenning & Scattergood
12	
13	ALSO PRESENT:
14	JONATHAN VADERS - VIDEOGRAPHER
15	U.S. LEGAL
16	
17	LARRY MASI
18	JOHN DELLAVECCHIA
19	LUCY MASI

Page 4	
1	THE VIDEOGRAPHER: This is the
2	videotaped deposition of Tim Markley in
3	the matter of Dominion Development Group
4	versus Cindy Beyerlein and Boenning, et
5	al., in the United States District Court
6	for the Middle District of Pennsylvania.
7	This deposition is being held at Saul
8	Ewing, LLC on April 26, 2016.
9	My name is Jonathan Vaders for
10	U.S. Legal Support, and I am the video
11	specialist. The court reporter today is
12	Jean Walker, also from U.S. Legal Support.
13	We are going on the record at 1:09 p.m.
14	Counsel will now state their appearances
15	for the record.
16	MR. STOVIAK: John Stovik for
17	defendant Boenning & Scattergood.
18	MS. EDMUNDS: Emily Evans for
19	Boenning & Scattergood.
20	MR. CHADA: George Chada on
21	behalf of Dr. Cindy Beyerlein, defendant.
22	MR. KATZ: Jeffrey Katz on
23	behalf of the plaintiff.
24	MR. PERRUCCI: Angelo M.
25	Perrucci, Junior on behalf of the

			Page 3
1		I N D E X	
2			
3			
4	WITNESS		PAGE
5	TIMOTHY MARKLEY		
	(Witness sworn.)		
6			
	DIRECT EXAMINATION		
7	BY: MR. STOVIAK		5
8	CROSS-EXAMINATION		
	BY: MR. PERRUCCI		64
9			
	CROSS-EXAMINATION		
10	BY: MR. CHADA		66
11			
12			
13			
14		E X H I B I T S	
15	NO.	DESCRIPTION	PAGE
16			
	MARKLEY-1	6/1/2009 LETTER	42
17			
	MARKLEY-2	11/7/2015 LETTER	44
18			
	MARKLEY-3	3/14/2009 DOCUMENT	48
19			
	MARKLEY-4	AGREEMENT OF SALE	49
20			
	MARKLEY-5	LETTER	49
21			
	MARKLEY-6	SYNOPSIS OF FAILED	49
22		ATTEMPTS	
	MARKLEY-7	AFFIDAVIT	49
23			
24			
25			

Page 34

1 Scattergood. I don't know. She didn't present,  
2 really, much to me at all. When she called me up  
3 two weeks later or so, she seemed very concerned  
4 about me personally. I asked if she could help me  
5 figure out the finances and how so much money could  
6 be spent, and we have absolutely nothing to show for  
7 it.

8 Q. What did she say?

9 A. She said, well, I'll do what I can. She  
10 said, Fred is very concerned about you.

11 Q. What was your relationship with Fred  
12 McKillop? I take it you knew him before this?

13 A. Yes. He had worked for us in the past for  
14 a brief time. He worked as a liaison to help us  
15 secure some grant money. He told me that he never  
16 received the follow-up documentation for the grant  
17 money, which helped his -- which hurt his reputation  
18 within the community that he works with in  
19 Harrisburg.

20 Q. Who was he supposed to receive the  
21 follow-up from?

22 A. From Mr. Masi. The grants went through  
23 Mr. Masi's accounts, and Mr. Masi was supposed to  
24 finalize and do reports. Fred said he never got  
25 them.

Page 35

1 Q. Did Ms. Beyerlein and you have some other  
2 conversations through 2013 about your personal  
3 concerns?

4 A. Yeah, I explained to her my situation, and  
5 she said, you have -- she goes I'll help you  
6 whatever I can as a friend. We tried to figure out  
7 how to get out of this mess, and it seemed like  
8 there was three options; file bankruptcy, make a  
9 purchase agreement with Mr. Masi, and she suggested  
10 that would be the best thing for me.

11 Q. For you to buy him out --

12 A. No, for him to buy me and Lisa out. He  
13 wanted to do this development, he wanted to borrow  
14 \$50 million, he wanted to keep changing the scope,  
15 and now he was doing a wellness center and --

16 Q. What was the third option aside from  
17 buying you out or filing bankruptcy?

18 A. Trying to stabilize the project and take  
19 care of the investors and ask Mr. Masi to walk away,  
20 because he made this project toxic.

21 Q. You say he made the project toxic --

22 A. With the local community.

23 Q. -- was that your belief before you met  
24 Ms. Beyerlein?

25 A. Yes, for the last several years -- for

Page 36

1 many years people would say, Tim, how is it going,  
2 you're hanging in up there, it turned into, how is  
3 your partner -- what's your Masi up to? They'd  
4 almost spit it at me.

5 Q. So your belief prior to ever meeting --

6 A. Yeah.

7 Q. -- Cindy Beyerlein was that he made -- he  
8 was toxic in the community?

9 A. Yes.

10 Q. Okay. Had you asked him to buy you and  
11 Lisa out prior to Ms. Beyerlein -- prior to you  
12 meeting Cindy Beyerlein?

13 A. There were discussions over many years of  
14 different buyout agreements, but every one of them  
15 was convoluted and had strings attached, so starting  
16 in 2013, when I asked for records of the finances  
17 and stuff and started getting stalled, Cindy  
18 Beyerlein recommended that I get in touch with an  
19 attorney and try to negotiate a purchase by  
20 Mr. Masi.

21 Q. Did you get in touch with an attorney?

22 A. I did.

23 Q. Nicole Plank?

24 A. Nicole Plank.

25 Q. What resulted from that?

Page 37

1 A. There was negotiations back and forth for  
2 several months with Mr. Masi's attorney.

3 Q. Is that Mr. Swayze?

4 A. Mr. Pete Swayze, whatever his name is.

5 Q. And was it negotiations over documents or  
6 was it negotiations over an actual buyout?

7 A. We wanted to be bought out and we wanted  
8 to get away from Mr. Masi, and we tried several  
9 different scenarios that were, in my estimation,  
10 very fair, and from the attorney, Plank's,  
11 estimation were very fair. The problem was Mr. Masi  
12 is not capable of making an honest deal. Every one  
13 of them had hooks in me and Lisa. We had to agree  
14 to everything that he wanted done or we didn't get  
15 our money. The last one we received was that when  
16 he got his first five million, we'd get 100,000.  
17 When he got his next 10 million, we'd get 150,000.  
18 I believe there was no intention to go any further  
19 than one or two draws, and leave me and  
20 Ms. Lutterschmidt with the bill.

21 Q. So prior to your meeting Cindy Beyerlein  
22 the first time, you wanted to get away from  
23 Mr. Masi?

24 A. Well, by early 2012 -- 2012 -- late 2012,  
25 '13, he had already gone behind my back to